

**TITLE 30
GAMING VENDOR/OPERATOR TRIBAL FEE CODE
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TITLE 30
GAMING VENDOR/GAMING OPERATOR TRIBAL FEE CODE

ARTICLE I
GENERAL PROVISIONS

Section 101. Authority and Title

The Seminole Nation of Oklahoma is empowered to enact this legislation pursuant to Article V of the Constitution of the Seminole Nation of Oklahoma. The Seminole Nation Gaming Vendor/Gaming Operator Tribal Fee Code is hereby adopted and approved by the General Council on March 6, 2004 by Ordinance No. 2004-15 and shall be known as the Seminole Nation Gaming Vendor/Gaming Operator Tribal Fee Code of 2004.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

Section 102. Purpose

The purpose of the Seminole Nation Gaming Vendor/Gaming Operator Tribal Fee Code of 2004 (the "Code") is to promote public health, education and such other services that may contribute to the social and economic advancement of the members of the Seminole Nation of Oklahoma by exercising the specific grant of authority contained in Article V of the Constitution of the Seminole Nation of Oklahoma and by:

- (a) Strengthening the tribal government by licensing and regulating certain business and gaming conduct within the Tribal Jurisdiction as hereinafter defined;
- (b) Providing financing for the current expenses of the tribal government;
- (c) Provide financing for the expansion of tribal government operations and services in order for the tribal government to efficiently exercise its responsibilities and expand economic growth within the Tribal Jurisdiction;
- (d) Providing simple, fair and uniform procedures and remedies;
- (e) Providing for the licensing and regulation of Gaming Vendors and Gaming Operators; and
- (f) Providing for the levy and collection of certain revenue and Tribal fees to further the above mentioned purposes.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004.]

Section 1.03 Definitions

As used in this Code, unless the context otherwise requires, these terms shall have the following definitions:

(a) "BCR" shall mean the Seminole Nation Business Corporate and Regulatory Commission as defined by Title 3-A of the Code of Laws of the Seminole Nation of Oklahoma.

(b) "Cash Drop" shall mean the total amount of cash removed from drop buckets and/or bill acceptor canisters.

(c) "Drop" shall mean the total amount of cash; coupons & tokens removed from drop buckets and/or bill acceptor canisters.

(d) "Game(s)" shall mean each and every gaming device placed in any casino owned or leased by the Seminole Nation of Oklahoma as further described in Title 15, Chapter 1, of the Seminole Nation Public Gaming Act, as amended.

(e) "Gaming" shall mean the act of providing or participating in any Game currently approved, or approved in the future by Title 15, Chapter 1, of the Seminole Nation Public Gaming Act, as amended.

(f) "Gaming Operator" shall mean each person (not an individual tribal member or SND OC employee acting in their individual capacity) or entity that is licensed by the Seminole Nation of Oklahoma and/or who has management responsibilities, and as part of this responsibility owns, operates or leases Games that must be regulated by the NIGC, and who has entered into a Gaming Operator contract to do business with the Seminole Nation of Oklahoma and receives revenue from such Games, pays amounts to winners playing such Games and pays any direct expenses related to the upkeep of such Games.

(g) "Gaming Vendor" shall mean each person (not an individual tribal member or SND OC employee acting in their individual capacity) or entity that is licensed by the Seminole Nation of Oklahoma who owns, operates or leases Games that have been certified by the NIGC, and who has entered into a Gaming Vendor contract to do business with the Seminole Nation of Oklahoma and receives revenue from such Games, pays amounts to winners playing such Games and pays any direct expenses related to the upkeep of such Games, and may include any person or entity as described above who provides contract services to a Gaming Operator at Gaming facilities for more than \$25,000 per year in the Gaming facilities and who must have an NIGC license.

(h) "General Council" shall mean the legislative body governing the Seminole Nation of Oklahoma.

(i) "Indian Country" shall mean the area of land included in Indian Country as further defined in the Internal Revenue Code of 1986, as amended for federal income tax purposes.

(j) "License" means the permission by authority of the Seminole Nation to do an act, which without permission would be illegal. It is a permit granted by the Seminole Nation Gaming Commission for a consideration to a person, group, community, firm or corporation to pursue gaming regulation under the jurisdiction of the Seminole Nation.

(k) "Nation" shall mean the Seminole Nation of Oklahoma.

(l) "Net Receipts" shall mean the total amounts wagered less payouts/winnings to patrons.

(m) "SNDOC" shall mean the Seminole Nation Division of Commerce, or its successors or assigns, or any other Gaming Operator charged with the operation of any or all of the Nation's gaming enterprises or gaming facilities.

(n) "SNGA" shall mean the Seminole Nation Gaming Agency established pursuant to Title 15 of the Seminole Nation Code of Laws.

(o) "Tribal Jurisdiction" shall mean those areas over which the Nation has jurisdiction, including all tribal lands, dependent Indian Communities and Trust Allotments, as defined in 18USC 1151, and shall also include any area of Indian Country that may become available to the Nation for purposes of Gaming.

(p) "Vendor/Operator Tribal Fee" shall mean the Tribal fee imposed upon all Gaming Operators or Gaming Vendors pursuant to this Chapter.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004; amended by TO-
2009-13, December 5, 2009.]

ARTICLE II TRIBAL FEES IMPOSED

Section 2.01 Vendor/Operator Tribal Fee Rate

(q) There is hereby levied upon each Gaming Vendor & Gaming Operator doing business within the Seminole Nation Tribal Jurisdiction a Vendor/Operator Tribal Fee of five percent (5%) of their portion of all Net Receipts (after player pay-outs) earned from each game operated within the Tribal Jurisdiction.

(r) The Vendor/Operator Tribal Fee shall automatically attach to and encumber all Net Receipts as they are collected by each Gaming Vendor and Gaming Operator.

(1) Each Gaming Vendor and Gaming Operator shall withhold from all Net Receipts funds sufficient to pay the fee and shall deposit said funds into a segregated account established in a federally insured banking institution and designated specifically for Vendor Fee funds to be remitted to the BCR.

(2) Funds attributable to the Vendor Fee shall not be commingled with other funds held or possessed by a Gaming Vendor or Gaming Operator, and said funds shall not be used to pay any other obligations of the Gaming Vendor or Gaming Operator.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004; Amended by
Ordinance No. 2005-12, September 24, 2005; amended by TO-
2009-13, December 5, 2009.]

Section 2.02 Impact of Vendor/Operator Tribal Fee

The Impact of the Vendor/Operator Tribal Fee imposed by this Code is declared to be upon the Gaming Vendor & Gaming Operator.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

ARTICLE III
PROCEDURE FOR COLLECTION AND PAYMENT AND RECORDKEEPING

Section 3.01 Payment of Vendor/Operator Tribal Fee

No later than the 15th day of each month, each Gaming Vendor & Gaming Operator (including, without limitation, SND OC) shall submit to the BCR their payment as invoiced by the BCR equal to 5% of their portion of all net receipts (cash drop) collected during the previous month within the Tribal Jurisdiction. Any payment of Vendor/Operator Tribal Fee not timely submitted shall be considered delinquent and shall accrue a penalty pursuant to Section 4.01 below.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004; Amended by
Ordinance No. TO-2007-21, December 1, 2007; amended by TO-
2009-13, December 5, 2009.]

Section 3.02 Records

It shall be the duty of each Gaming Vendor & Gaming Operator required to pay Vendor/Operator Tribal Fees under this Code to preserve such records of the gross receipts of such Gaming activities as the BCR may require and it shall be the duty of each Gaming Vendor or Gaming Operator to preserve and maintain for a period of not less than 7 years complete and adequate records, of any nature or kind required, as to the nature and scope of all Gaming activities conducted within the Tribal Jurisdiction. All such records shall be open for review and examination, at any time, by the BCR, upon reasonable notice to investigate the nature and character of the business, in order to determine the amount due under the provisions of the Code.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

ARTICLE IV PENALTIES

Section 4.01 Penalties Imposed

(s) Any Gaming Vendor or Gaming Operator who shall fail to pay the Vendor/Operator Tribal Fees imposed, or to maintain the Records required by this Code shall be liable for the full amount of the Vendor/Operator Tribal Fees imposed, plus a penalty interest rate in the amount of 10% per annum of the amount due and determined by the BCR to be delinquent. Willful failure to collect or pay over Vendor/Operator Tribal Fees imposed by this Code shall make the Gaming Vendor or Gaming Operator liable for an additional penalty of 100% of the Vendor/Operator Tribal Fees due. In the case of a failure to maintain the Records required by this Code, a flat charge of Two Thousand Five Hundred Dollars (\$2,500.00) per violation shall be imposed.

(t) In addition to the fines and penalties outlined above, a Gaming Vendor's or Gaming Operator's failure to timely remit the fees required by this Title shall be subject to penal action as follows:

(1) Upon the first such violation, the BCR shall serve the Gaming Vendor or Gaming Operator with telephonic or written notice.

(i) The Gaming Vendor or Gaming Operator shall have two business days in which to cure the failure to remit.

(ii) The BCR shall report to the SNGA a failure to cure the deficiency within the cure period.

(2) Upon the second such violation in any six-month period, the Gaming Operator or Gaming Vendor shall not be permitted the opportunity to cure. Instead, the BCR shall immediately report such failure to the SNGA.

(u) The SNGA may, in the exercise of the regulatory authority vested by Title 15, investigate all reports from the BCR concerning failure to remit required fees and failures to maintain records required by this Title.

(1) The SNGA retains its authority under Title 15 to ensure that revenues from the operation of the Seminole Nation's regulated gaming activities are used only for authorized purposes the authority to resolve remittance disputes between the BCR and any Gaming Operator or Gaming Vendor.

(2) Upon review by the SNGA, any Gaming Operator or Gaming Vendor who has failed to comply with the remittance or record keeping requirements of this Title shall be deemed to have violated Title 15, §§ 301(a)(1) and (4) and shall be subject to the penalties available under Title 15, § 301(d), including possible license revocation pursuant to Title 15, §§ 203(a)(15) and (e).

(3) Decisions of the SNGA shall be appealable to the Seminole Nation Gaming Office of Appeals pursuant to the provisions of Title 105, § 305(d).

(v) If the SNGA fails, refuses, declines or is otherwise unable to initiate an investigation into any failure to remit fees imposed by this Code within forty-five (45) days from the receipt of such referral, the BCR may pursue other remedial action as otherwise provided in this Title.

(w) In the case of fraud or embezzlement or theft, such Gaming Vendor or Employee shall also be subject to all criminal penalties applicable under the laws of the Nation and the laws of the United States of America.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004; amended by TO-
2009-13, December 5, 2009.]

Section 4.02 Banishment

Any Gaming Vendor or Gaming Operator who violates any provision of this Code for the purpose of evading payment of fees imposed by this Code in addition to any penalties imposed by this Code may be banished and excluded from carrying on any business within the Tribal Jurisdiction for a period not to exceed 5 years, by order of the General Council.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004.]

Section 4.03 Cancellation of Licenses

Any Gaming Vendor or Gaming Operator who is banished and excluded from the Tribal Jurisdiction shall have all licenses, permits and other authority to carry on business within the Tribal Jurisdiction cancelled by operation of law.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004.]

ARTICLE V
POWERS AND RESPONSIBILITIES OF THE SEMINOLE NATION
BUSINESS AND CORPORATE REGULATORY COMMISSION

Section 5.01 General Powers of the BCR

The BCR shall generally be charged with the administration and enforcement of the Code. Incidental to the administration and enforcement of the Code, the BCR shall have the power to:

(x) Assess, collect and issue receipts for such Vendor/Operator Tribal Fees, penalties, interest and other charges as are imposed by this Code and to bring actions on behalf of the Nation in CFR Court or the United States District Court for the Eastern District of Oklahoma for the collection of Vendor/Operator Tribal Fees, penalties, interest and other charges and the enforcement of the Code;

(y) Administer oaths, conduct hearings, and, by subpoena, to compel the attendance of witnesses and the production of any books, records or papers of any Gaming Vendor or Gaming Operator relating to the enforcement of the Code;

(z) Make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents, and financial statements of any Gaming Vendor or Gaming Operator, upon reasonable notice, during normal business hours, or at any other time agreed to by the Gaming Vendor or Gaming Operator, or at any time, pursuant to a search warrant issued by the CFR Court or the United States District Court for the Eastern District of Oklahoma.

(aa) Examine, under oath, either orally or in writing any Gaming Vendor or Gaming Operator or any agent, officer, or employee of any Gaming Vendor or Gaming Operator, or any other witness in respect to any matter relevant to the Code;

(bb) Exercise all other authority delegated or conferred upon it by law, or as may be reasonably necessary in the administration or enforcement of the Code.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

Section 5.02 Enforcement and Regulation

The BCR is hereby authorized to enforce the provisions of this Code and to promulgate and enforce any reasonable rules and regulations with respect thereto. The BCR may also prescribe, promulgate and enforce all necessary rules and regulations for the purpose of making and filing reports required under the Nation's Code of Laws and such rules and regulations as may be necessary to ascertain and compute the Vendor/Operator Tribal Fees, penalties, interest and other charges payable by any Gaming Vendor or Gaming Operator under the Nation's Code of Laws;

and may, at all times, exercise such authority as may be necessary to administer and enforce each and every provision of the Code.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

Section 5.03 Forms

The BCR shall prepare and make available such standard forms as are necessary to carry out the functions provided for by this Code.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004.]

Section 5.04 Records

The BCR shall keep a record of all its official acts and shall prepare copies of all rules, regulations and decisions and orders made by it.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004.]

Section 5.05 BCR Gaming Revenue Account

(cc) There is hereby authorized and directed to be established an account in a federally insured banking institution to be known as the BCR Gaming Revenue Account.

(dd) All Vendor/Operator Tribal Fees, penalties, interest and other charges, or other monies collected by the BCR in administration and enforcement of this Code shall be deposited into the BCR Gaming Revenue Account to be dispensed under the authority of the General Council. Such funds shall be devoted to the health, welfare, education and other governmental purposes of the Nation.

(ee) The BCR Gaming Revenue Account shall be an interest bearing account and the funds therein may be invested and reinvested as may be approved by the General Council.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

Section 5.06 Apportionment

(ff) Thirty percent (30%) of the Vendor/Operator Tribal Fees collected and deposited into the BCR Gaming Revenue Account shall be used as either matching funds for any grant or other funding award or as direct funding for the development, construction and operation of a Tribal Facility within the Tribal Jurisdiction for the tribal members. Such funds shall be appropriated by a duly approved General Council Resolution and included in the General Fund budget as a line item entitled "Tribal Government Facility" under the subheading "Special Appropriations." No appropriation shall be authorized until the funds accumulated under this

subsection either exceed Two Hundred Thousand Dollars (\$200,000) or equal the minimum amount required for any matching funds for the Tribal Facility, whichever occurs first.

(gg) Seventy percent (70%) of the Vendor/Operator Tribal Fees collected, together with any penalties, interest and other charges, shall be deposited into the BCR Gaming Revenue Account and shall be reserved for general governmental purposes, functions, programs or services for tribal members as authorized and appropriated by a duly approved General Council Resolution. No appropriation from the fees collected under this subsection shall be expended within the fiscal year in which they are collected

[HISTORY: Enacted by Ordinance No. 2004-26, September 4, 2004.]

Section 5.07 Collection Actions

The BCR is hereby authorized to bring any necessary action in CFR Court or the United States District Court for the Eastern District of Oklahoma for the collection of any Vendor/Operator Tribal Fees, penalties, interest or other charges assessed and unpaid. Such action shall be civil in nature and all penalties and interest shall be in the form of civil damages for non-payment. Any civil remedies, including but not limited to garnishment, attachment, and execution shall be available for collection of monies due to the Nation. The BCR may request legal counsel to bring any necessary action for the collection of any Vendor/Operator Tribal Fees, penalties, interest or other charges assessed and unpaid in CFR Court or the United States District Court for the Eastern District of Oklahoma upon authority of the General Council.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

ARTICLE VI ADMINISTRATIVE APPEALS

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004.]

Section 6.01 Administrative Appeals

Any Gaming Vendor or Gaming Operator against whom the BCR has assessed Vendor/Operator Tribal Fees, penalties, interest or other charges pursuant to this Code, or who has paid under written protest any Vendor/Operator Tribal Fees, penalties, interest, or other charges assessed by the BCR who believes such Vendor/Operator Tribal Fees, penalties, interest or other charges to be wrongfully assessed or collected, may appeal in writing for a full hearing before the BCR under such other rules and regulations as the BCR may prescribe.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

Section 6.02 Limitation on Administrative Appeals

Any administrative appeal as provided for in this Code must be initiated by filing a written request for a hearing with the BCR within 90 days of the assessment or payment of Vendor/Operator Tribal Fees, penalties, interest or other charges in controversy, provided that failure to file an administrative appeal shall not prevent the Gaming Vendor or Gaming Operator from defending any collection action by the BCR in CFR Court or the United States District Court for the Eastern District of Oklahoma.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

Section 6.03 Exhaustion of Administrative Remedies

Administrative remedies shall be deemed exhausted:

- (hh) Upon a final decision of an appeal pursuant to this Code;
- (ii) If the BCR shall fail to schedule and hold a hearing on the merits of the administrative appeal within 90 days after receipt of a written request for a hearing unless delay is requested or approved by the Gaming Vendor or Gaming Operator; or
- (jj) If the BCR shall fail to issue a written decision on the appeal within 30 days of the hearing on the merits of the administrative appeal.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004.]

Section 6.04 Suits Against the BCR

The BCR, as a governmental agency of the Nation, its members and employees shall be immune from any suit in law or equity while performing their lawful duties within the scope of the authority delegated to them, provided, that any Gaming Vendor or Gaming Operator against whom the BCR has assessed Vendor/Operator Tribal Fees, penalties, interest or other charges or who has paid under written protest any Vendor/Operator Tribal Fees, penalties, interest or other charges may bring an action in CFR Court after exhaustion of administrative remedies, to enjoin the BCR from collecting any Vendor/Operator Tribal Fees, penalties, interest or other charges assessed, or for the recovery of any Vendor/Operator Tribal Fees, penalties, interest or other charges paid under written protest which the CFR Court finally determines to have been wrongfully assessed or collected.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

Section 6.05 Limitation on Suits against the BCR

(kk) Any suit against the BCR authorized under this Code must be commenced by filing a petition in CFR Court within 30 days after the date of exhaustion of administrative remedies.

(ll) In no event shall the CFR Court be authorized to award or order the payment of damages or to fashion a remedy except to enjoin the collection or order the return of the amount of the Vendor/Operator Tribal Fees, penalties, interest or other charges in controversy unless an additional remedy is specifically provided by this Code.

(mm) All amounts found to be wrongfully collected and refundable shall earn simple interest at a rate of 5% per annum until refunded.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]

Section 6.06 Refunds

(nn) Whenever any Gaming Vendor or Gaming Operator shall establish in any administrative hearing or CFR Court proceeding that such person or entity is entitled to a refund of any Vendor/Operator Tribal Fees, penalties, interest or other charges previously paid, the BCR shall immediately cause a certified copy of the order and transcript of the order and transcript of any administrative action or judgment of the CFR Court to be filed.

(oo) Upon receipt of such order and transcript or judgment of the CFR Court, the BCR shall appropriate from the Gaming Revenue Account such amounts as may be necessary to pay such refund from otherwise unappropriated money. The BCR shall thereafter issue a refund.

[HISTORY: Enacted by Ordinance 2004-15, March 6, 2004;
amended by TO-2004-26, September 4, 2004.]